

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AL EVERITT BOYETT, JR.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 2:05-CV-966-D
)	
ANTHONY CLARK, SHERIFF, <i>et al.</i>,)	
)	
Defendants.)	

ANSWER

COME NOW Anthony Clark Sheriff of Covington County, and Kevin Smith, Interim Jail Administrator of the Covington County Jail, defendants in this action (hereafter, "Defendants"), and respond to the Complaint filed by Plaintiff in the above-styled cause and state as follows:

1. Plaintiff brings his suit under 42 U.S.C. § 1983 and claims that his constitutional rights were violated by Defendants.¹ More specifically, as a convicted offender, the Plaintiff alleges that his First, Fourth, Fifth and Eighth Amendment rights have been violated in that the Defendants failed to provide medical care.

2. Defendants admit that the Plaintiff was incarcerated on or before June 7, 2005, at the Covington County Jail.

3. Defendants deny the remaining allegations and inferences in the Plaintiff's Complaint.

¹ The following statement of the issues and claims made by Plaintiff are based upon Plaintiff's Complaint and the undersigned's interpretation of the issues raised. Plaintiff's references to the First and Fifth Amendments appear to the undersigned to be directed to his right to bring the instant lawsuit for redress of his grievance. The undersigned is quite frankly confounded by Plaintiff's reference to the Fourth Amendment. In all events, if other issues are presented, Defendants generally deny any such allegations as being untrue and completely without basis in law or fact.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint separately and severally fails to state a claim upon which relief can be granted. Defendants did not deprive Plaintiff of any constitutional right to which he is entitled.

2. Any claims against these Defendants in their official capacities are barred by the Eleventh Amendment and because these Defendants are not "persons" under 42 U.S.C. § 1983.

3. These Defendants are entitled to qualified immunity in their individual capacities.

4. The Plaintiff's claims are barred due to the Plaintiff's failure to exhaust all available state remedies.

5. Defendants reserve the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendants request this Court to enter judgment in their favor and grant unto them costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted on this the 23rd day of November, 2005.

s/Scott W. Gosnell
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CERTIFICATE OF SERVICE

I hereby certify that on this the 23rd day of November, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF and served the following by U.S. Mail:

Al Everitt Boyett
Covington County Jail
290 Hillcrest Drive
Andalusia, Alabama 36420

s/Scott W. Gosnell
OF COUNSEL